IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1398 OF 2005

Dilip Posha Katkar ..Appellant.

Vs.

Sakharam Posha Katkar & Ors. ..Respondents.

....

Mr.G.N.Salunke with Mr.V.S.Kokitkar for the Appellant.

....

CORAM : DR.D.Y.CHANDRACHUD, J.

2nd December, 2005.

P.C. :

The Appellant propounded that he had been bequeathed the property under the will of Gangabai. The First Appellate Court has discussed the question as to whether the will has been duly proved in paragraph 10 of the judgment. I have also perused the cross examination of D.W.2.

Sahadev who was examined as an attesting witness. D.W. 2 admitted in the course of his cross examination that he had put his signature down in the office of the Grampanchayat and he stated that prior to that the will had been prepared. D.W. 2 stated that he was unaware as to when Gangabai had executed the will. He admitted that the thumb impression of Gangabai on the will had not been obtained in his presence. In these circumstances, when the witness who was examined specifically admitted that the testator had not executed the will in his presence and that his signatures have been subsequently obtained in the office of the Grampanchayat, the First Appellate Court was justified in coming to the conclusion that the will had not been duly provided. Having regard to the aforesaid finding, no case for interference has been made out. The Second Appeal does not raise any substantial question of law. The Second Appeal is accordingly dismissed.